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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO VENUE

19 UNITED STATES OF AMERICA,)
20 Plaintiff,)
21 v.)
22 \$20,000 IN UNITED STATES CURRENCY,)
23 Defendant.)
24
25)
26)
27)
28)

No. C 07-1702 SI
**REQUEST AND [PROPOSED] ORDER
RE DISMISSAL**

19 Pursuant to Rule 41(a)(1) of Federal Rules of Civil Procedure, plaintiff hereby requests a
20 dismissal of the instant action. Plaintiff's request is predicated on the representations made by
21 Thomas Kelly, the owner of the funds, in the plea agreement filed in the related criminal action
22 captioned United States v. Thomas Kelly, CR 06-00533 SI, currently pending in this district.
23 Specifically, Thomas Kelly agreed that these seized funds could be applied towards his
24 restitution obligations in the criminal case. Accordingly, the government agrees to forego this

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**REQUEST AND [PROPOSED] ORDER
RE DISMISSAL
(07-1702 SI)**

1 || forfeiture action in favor of restitution in the related criminal case.

2 DATED: October 15, 2007 Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

STEPHANIE M. HENDS
Assistant United States Attorney

[PROPOSED] ORDER RE DISMISSAL

11 Upon plaintiff's request, and good cause appearing, the Court hereby dismisses the
12 instant action. Each party is to bear their own fees and costs in this action.

14 IT IS SO ORDERED.

DATED:

Susan Illston
SUSAN ILLSTON
United States District Judge

**REQUEST AND [PROPOSED] ORDER
RE DISMISSAL
(07-1702 SI)**

CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that she is an employee in the Office of the United States
3 Attorney for the Northern District of California and is a person of such age and discretion to be
4 competent to serve papers. The undersigned further certifies that she caused a copy of

- Request and Proposed Order re Dismissal

6 by U. S. first class mail delivery upon the person(s) below at the place(s) and address(es) which
7 is/are the last known address(es):

8

9 Mr. Stephen G. Frye
633 W. 5th Street, Suite 2800
10 Los Angeles, CA 90071-2039
Attorney for Thomas Kelly

11 I declare under penalty of perjury under the laws of the United States of America that the
12 foregoing is true and correct to the best of my knowledge. Executed this 16th day of
13 October, 2007, at San Francisco, California.

Carolyn Jusay
CAROLYN JUSAY
Legal Assistant
Asset Forfeiture Unit

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